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ATTORNEYS AND COUNSELORS AT LAW

ROBINSON, MCFADDEN & MOORE, P.C.

COLUMBIA | GREENVILLE

May 6, 2005

**VIA EMAIL & HAND DELIVERED**

Mr. Charles Terreni  
Chief Clerk of the Commission  
Public Service Commission of South Carolina  
Synergy Business Park, Saluda Building  
101 Executive Center Drive  
Columbia, SC 29210

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**Re: Time Warner Cable Information Services (SC), LLC  
Docket No. 2004-279-C / Alltel Service Area  
Our File No. 03027-0065**

SC PUBLIC SERVICE COMMISSION  
2005 MAY -6 PM 4:03  
Filer's Stamp

Dear Mr. Terreni:

Enclosed for filing please find the proposed order of Time Warner Cable Information Services (SC), LLC in the above referenced docket. We will also submit two electronic versions, one in adobe format for posting to the website which will be served on all interested parties and one in Word format to Mr. Melchers so that it can be modified as the Commission deems appropriate. Please stamp the extra copy provided as proof of filing and return it with our courier. Should you have any questions please contact me.

Yours truly,

ROBINSON, MCFADDEN & MOORE, P.C.

Frank R. Ellerbe, III

FRE/bds  
Enclosure  
cc/enc:

Joseph Melchers, Chief Counsel (via email & U.S. Mail)  
Julie Y. Patterson, Esquire (via email & U.S. Mail)  
Ms. Charlene Keys (via email & U.S. Mail)  
Florence P. Belser, Esquire (via email & U.S. Mail)  
Benjamin P. Mustian, Esquire (via email & U.S. Mail)  
Dan F. Arnett, Chief of Staff (via email & U.S. Mail)  
Robert D. Coble, Esquire (via email & U.S. Mail)  
Ms. Daphne Werts (via email)

205-11-11

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 COMMUNIST

**May \_\_\_\_\_, 2005**

# ORDER GRANTING AMENDMENT TO CERTIFICATE

## INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Application of Time Warner Cable Information Services (South Carolina), LLC, d/b/a Time Warner Cable, (“TWCIS” or “Company”) to expand its scope of authority. TWCIS submits its Application to amend its Certificate of Public Convenience and Necessity under Order No. 2004-213 to authorize TWCIS to serve customers throughout the service area of Alltel South Carolina, Inc. (“Alltel”). The Company is currently authorized to offer interexchange services to customers throughout the State and local telecommunications services to customers in areas of South Carolina where the incumbent local exchange telephone company currently does not have a rural exemption under 47 U.S.C. § 251(f)(1). In Docket No. 2003-362-C, Order No. 2004-495, TWCIS was authorized to operate under an alternative regulatory plan under S.C. Code Sections 58-9-575 and 58-9-585 and seeks to operate under the same regulatory scheme in the Alltel service area.

TWCIS applied to provide the same services in the rural ILECs' service area that are provided in its current service area. In its certificated service area, TWCIS currently provides facilities-based Internet Protocol ("IP") voice service to customers that is offered on a bundled-flat rate basis and allows standard local calling in addition to operator services, directory assistance, enhanced "911" services, outbound 800 toll free calling, customer calling features such as call waiting, caller identification, and directory listings.

TWCIS notes that the information on the TWCIS' financial, technical and managerial ability filed in the original application remains materially unchanged since it was filed in 2003. TWCIS also notes that in Order No. 2004-213 the Commission concluded that the TWCIS is financially qualified and that TWCIS possesses sufficient managerial and technical resources to provide telecommunications services and be certificated by the Commission. In addition, TWCIS seeks the same limited waivers it was granted in Order No. 2004-213.

Pursuant to the instructions of the Commission's Docketing Department, the Company published notice of its filing of the Application in area newspapers. No protests were received. Alltel intervened in the matter but subsequently notified the Commission that it would not attend or participate in the hearing. The Office of Regulatory Staff ("ORS") does not oppose the expansion of the Company's service area. No other petitions to intervene were filed.

On March 3, 2005, TWCIS filed the verified testimony of Julie Patterson, Vice President and Chief Counsel, Telephony for Time Warner Cable. On March 31, 2005, the Commission waived the hearing and granted expedited review of the Application with the stipulation that a copy of the transcript of the testimony given by Ms. Patterson in Docket No. 2004-280-C, *In re: Application of Time Warner Cable Information Services (South Carolina), LLC, d/b/a Time Warner Cable to Amend its Certificate of Public Convenience and Necessity to Provide*

*Interexchange and Local Voice Services in Service Areas of Certain Incumbent Carriers who Currently Have a Rural Exemption*, be entered into evidence as part of the formal record in Docket No. 2004-279-C. We also grant the relief sought in the Application based upon the testimony of Ms. Patterson.

Ms. Patterson is responsible for the legal and regulatory affairs relating to TWCIS' deployment of Voice Over IP services and regulated telecommunications services throughout the country. Ms. Patterson presented evidence on the financial, technical, and managerial abilities of TWCIS to provide local services in the Alltel service area in South Carolina. Tr. 14-15. She also described the services that TWCIS proposes to offer in the Alltel service area and how TWCIS would proceed with future tariff filings as a result of the Federal Communications Commission's recent ruling regarding the regulatory status of VoIP-based services.<sup>1</sup> Tr. 16.

Ms. Patterson testified that TWCIS continues to rely on the same officers identified in the initial certification docket. She also testified as to the managerial and technical experience of the local employees headed by Charlene Keys, Vice President & General Manager of General Phone. Ms. Patterson noted that Time Warner Cable maintains a relationship with TWCIS whereby Time Warner Cable provides the funding, financing, and capital necessary to provide services to customers in the Alltel service area. Tr. 14-15.

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<sup>1</sup> During the pendency of this Application, the Federal Communications Commission addressed the question of whether Voice Over IP based services are subject to state and/or federal regulation *In the Matter of Vonage Holdings Corporation's Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, Memorandum Opinion and Order, FCC 04-267, released November 12, 2004 ("Vonage Order"). In the Vonage Order, the Commission ruled that certain types of VoIP-based services are subject to preemption of state certification, tariffing, and other related state regulatory requirements. Ms. Patterson testified that this change in the current law affects the regulation of the retail VoIP based services offered under its tariff and that, consistent with the FCC's ruling in the Vonage Order, TWCIS intends to revise its tariff in accordance with the Commission's normal tariffing procedures. TWCIS has not yet filed its amended tariff and issues related to the future changes that TWCIS intends to make to its tariff are not before the Commission in this proceeding. Despite amending its retail tariff as a result of the Vonage Order, TWCIS will continue to comply with all applicable rules and statutes relating to the collection and payment of universal service fund contributions, 911 services and surcharges, and other reporting and regulatory fee requirements. Tr. 6, 25, 29-31, 62-63.

Ms. Patterson testified that TWCIS intends to begin offering services in the Alltel service area once it obtains an interconnection agreement directly with Alltel or through its relationship with TWCIS' interconnecting carrier, MCI. Tr. 17-18, 94. She testified that TWCIS seeks to become a fully regulated CLEC carrier in the Alltel service areas through this application so that it will have the right, pursuant to the Telecom Act, to obtain this interconnection. Tr. 29 -30, 34-36, 62-64.

Ms. Patterson testified that the issuance of an amended certificate to TWCIS would be in the public interest in that competition will be further increased in South Carolina.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. TWCIS has submitted an application to amend its Certificate of Public Convenience and Necessity to serve customers throughout the Alltel service area in South Carolina.

2. The Company is currently authorized to offer interexchange services to customers throughout the State and local telecommunications services to customers in areas of South Carolina where the incumbent local exchange telephone company does not have a rural exemption under 47 U.S.C. § 251(f)(1).

3. It is appropriate for the Company to continue to operate under the alternative regulatory plan under S.C. Code §§ 58-9-575 and 58-9-585 approved in Order No. 2004-495 for the Alltel service area.

4. Expedited review is appropriate for this Application.

5. The Company has the financial, managerial, and technical resources to provide the expanded local service to the Alltel service area.

6. The Company continues to meet all statutory requirements for the provision of service as a CLEC as delineated in S.C. Code Ann. Section 58-9-280 (Supp. 2004). Accordingly, the Company meets the statutory requirements to provide service in the proposed expanded service area.

7. The Application for an amended Certificate should be granted as filed.

### **ORDER**

Expedited review is granted. The Application of TWCIS for an amendment to its Certificate to expand into the service area of Alltel is hereby approved based on the evidence as outlined above. All reporting requirements and other directives found in Order Nos. 2004-213 and 2004-495 shall remain in full force and effect, unless exceptions are noted above, including, but not limited to those allowing various waivers. The Company shall, in addition, file copies of all reports outlined in Order No. 2004-213 with the Office of Regulatory Staff, in addition to filing them with the Commission. The Company may continue to operate under the alternative regulatory plan approved in Order No. 2004-495. This order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

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Randy Mitchell, Chairman

ATTEST:

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G. O'Neal Hamilton, Vice-Chairman

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2003-362-C  
2004-279-C

SO. PUB. SERV. COM.  
2005 MAY -6 PM 4:04  
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In Re: )  
)  
Application of Time Warner Cable )  
Information Services (South Carolina), )  
LLC, d/b/a Time Warner Cable to )  
Amend its Certificate of Public )  
Convenience and Necessity to Provide )  
Interexchange and Local Voice )  
Services in Alltel South Carolina, )  
Inc.'s Service Areas )


**CERTIFICATE OF SERVICE**

This is to certify that I, Mary F. Cutler, a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the persons named below the **Proposed Order of Time Warner Cable Information Services (SC), LLC** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

Dan F. Arnett, Cheif of Staff  
Florence P. Belser, General Counsel  
Benjamin P. Mustian, Esquire  
Office of Regulatory Staff  
Post Office Box 11263  
Columbia, SC 29211

Robert D. Coble, Esquire  
Nexsen Pruet, LLC  
PO Drawer 2426  
Columbia, SC 29202

Dated at Columbia, South Carolina this 6<sup>th</sup> day of May 2005.

  
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Mary F. Cutler